

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
December 5, 2005

**D043433      Lair et al., v. Vinci et al.,**

We reverse the court's new trial order and remand the matter with directions that it enter judgment on the jury's special verdict. We affirm the trial court's orders denying the parties' motion for JNOV. The parties shall bear their own costs on appeal. O'Rourke, J.; We Concur: McConnell, P.J., Haller, J.

**D047354      Jeanette R., v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

No timely petition for writ relief has been filed. The notice of intent is deemed to be abandoned. The case is dismissed.

**D047326      Crystal T., v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

No timely petition for writ relief has been filed. The notice of intent is deemed to be abandoned. The case is dismissed.

**D047282      Leticia O., v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The attorney for petitioner Leticia O. has notified the court on behalf of the petitioner that a Petition for Writ of Mandate under Rule 38.1 will not be filed as there are no viable issues for writ review. The case is dismissed.

**D046807      People v. Miller**

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is dismissed and the remittitur is ordered to issue immediately.

**D046308      People v. Landroche**

The judgment is affirmed. Irion, J.; We Concur: McConnell, P.J., Aaron, J.

**D042489      Wigington v. Will**

We reverse the judgment on Linda Wigington's conspiracy claim against Gary and Debra Will and the punitive damage award against the Wills. We affirm the judgment on Linda Wigington's cause of action for money had and received, including the \$480,000 compensatory damages awarded in favor of Linda Wigington against Debra and Gary Will. As Charlene Bruce did not appeal, the judgment against her is unaffected by this appeal. The parties to bear their own costs on appeal. Haller, J.; We Concur: McConnell, P.J., Aaron, J.

**D046808      HUB Properties Trust v. Alliance Pharmaceutical Corp.**

Upon filing a written abandonment of the appeal filed on 7/11/05, by Alliance Pharmaceutical Corporation, the appeal is dismissed. Upon filing a written abandonment of the cross-appeal filed on August 2, 2005, by HUB Properties Trust, the appeal is dismissed. The remittitur is ordered to issue immediately. Each party to bear its own costs on appeal.

**D047071      Kramer et al. v. Paulson**

Upon written stipulation filed by the parties, the appeal is dismissed and the remittitur is ordered to issue immediately. Each party to bear own costs on appeal.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
December 5, 2005 (Continued)

**D047586        People v. Poon**

The petition for transfer filed on November 30, 2005, is denied.

**D047239        In re Inocente Andrade Mena**

The petition is denied.

**D046605        Miglaccio v. Silva**

Upon written request filed by appellant, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 20(c)(2)).

**D047602        Lorenzen v. Superior Court of San Diego County/Jamay**

The petition is denied.

**D046425        Eklund v. Scripps Health**

The appeal filed on May 3, 2005 is dismissed because appellant did not timely deposit costs for preparing the record on appeal. Respondent's application for an order of dismissal is denied as moot.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
December 6, 2005

**D046691        In re Carolina B., et al., Juveniles**

The order is affirmed. Irion, J.; We Concur: Benke, Acting P.J., Haller, J.

**D046846        In re Bonita M. et al., Juveniles**

The judgment is affirmed. Huffman, Acting P.J.; We Concur: Haller, J., McDonald, J.

**D044603        People v. Castro**

The judgment is affirmed. Nares, J.; We Concur: Benke, Acting P.J., McIntyre, J.

**D046613        In re Richard B., a Juvenile**

The judgment terminating parental rights is reversed. This matter is remanded to the juvenile court, with directions that it (1) require the Agency to give proper ICWA notice to any appropriate tribe and the BIA, and file with the court the notices, return receipts, and any responses; and (2) hold a new section 366.26 hearing. If, at the new section 366.26 hearing, the court determines that the ICWA notice was proper and no Indian entity seeks to intervene or otherwise indicates that Richard is an Indian child as defined by ICWA, the court shall reinstate all of its previous findings and orders, including the termination of parental rights. If, on the other hand, an Indian entity determines that Richard is an Indian child under ICWA, the court shall conduct the detention, disposition and all subsequent hearings in accordance with ICWA. O'Rourke, J.; We Concur: Benke, Acting P.J., Irion, J.

**D046656        People v. Hernandez**

The judgment is affirmed. Aaron, J.; We Concur: McConnell, P.J., Huffman, J.

**D046073        People v. Stephan**

The judgment is reversed. The matter is remanded for consideration of the issues raised in the motion to suppress and response thereto in light of the views expressed in this opinion. McIntyre, J.; We Concur: Nares, J., O'Rourke, J.

**D047518        In re Kurbegovich on Habeas Corpus**

The petition is denied because it is successive, repetitious, and petitioner has failed to state a prima facie case for relief.

**D044619        Godding et al. v. Defense Web Technologies, Inc., et al.**

**D045434        Godding et al. v. Defense Web Technologies, Inc., et al.**

(Consolidated.) The orders are affirmed. The matter is remanded to the trial court for its determination of an attorney fees award to defendants on appeal. Defendants are also entitled to costs on appeal. McConnell, P.J.; We Concur: Haller, J., Aaron, J.

**D045020        People v. Esmane**

The judgment is affirmed. McConnell, P.J.; We Concur: Benke, J., Aaron, J.

**D047253        In re Green on Habeas Corpus**

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
December 6, 2005(continued)

**D046362 Canyon Capital Marketing, Inc. v. Corporate Stock Transfer, Inc.**

Appellant's opposed motion to vacate the dismissal and reinstate the appeal is granted. The order of dismissal is vacated and the appeal is reinstated. Appellant's opening brief is due within ten (10) days from the date of this order. No further extensions will be granted.

**D047605 In re Brittany H. a Juvenile**

A notice of appeal in delinquency cases under the Welfare and Institutions Code must be signed either by the appellant minor or his or her attorney. The notice of appeal received in the Superior Court of San Diego County on November 28, 2005, was signed by the minor's mother. The matter has been considered by Presiding Justice McConnell and Associates Justices O'Rourke and Nares. The appeal is dismissed.

**D046219 In re James Bottomley on Habeas Corpus**

The petition is denied.

**D047611 In re Warren on Habeas Corpus**

The petition is denied.

FOURTH APPELLATE DISTRICT  
DIVISION ONE  
December 7, 2005

**D046060        Hoff, Jr. v. Roosendaal**

Upon written stipulation filed by the parties to the appeal, the appeals is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 20(c)(2)). Each party to bear his own costs on appeal.

**D046734        Rached v. Superior Court of San Diego County/Board of Chiropractic Examiners**

The petition is denied. The stay of the suspension of the petitioner's chiropractic license issued on July 8, 2005, will be vacated when the opinion is final as to this court. The parties are to bear their own costs in the writ proceeding. McDonald, Acting P.J.; We Concur: McIntyre, J., Irion, J.

**D045250        Green v. Boehrig**

The judgment is reversed in part insofar as it awards Green punitive damages. In all other respects, the judgment is affirmed. Each party is to bear his or her own costs on appeal. McIntyre, J.; We Concur: Nares, Acting, P.J., O'Rourke, J.

**D046755        People v. Maclean**

The judgment is affirmed. Irion, J.; We Concur: O'Rourke, Acting P.J., Aaron, J.

**D046266        People v. Noble**

The judgment is modified by staying the sentence for battery with serious bodily injury (count 1). As so modified, the judgment is affirmed. The trial court is directed to correct its records accordingly. Nares, Acting P.J.; We Concur: O'Rourke, J., Aaron, J.

**D047485        Chateau Village Community Association v. Superior Court of San Diego  
County/Pardee Homes**

The petition is denied.

**D045557        Bivens v. Gallery Corporation**

The opinion filed November 22, 2005 is ordered certified for publication.

**D046970        Samantha A. v Superior Court of San Diego County/San Diego County Health and  
Human Services**

The petition is denied. The stay issued December 6, 2005, is vacated. Haller, J.; We Concur: Huffman, Acting P.J., McDonald, J.

FOURTH APPELLATE DISTRICT  
DIVISION ONE  
December 8, 2005

**D046200        People v. Pough**

The judgment is affirmed. McConnell, P.J.; We Concur: McDonald, J., Irion, J.

**D046045        People v. Buchanan**

The judgment is affirmed. McDonald, J.; We Concur: Huffman, Acting P.J., Aaron, J.

**D045900        People v. Nguyen**

The judgment is affirmed. Benke, Acting, P.J.; We Concur: Nares, J., O'Rourke, J.

**D046492        People v. Merrill**

The judgment is affirmed. Irion, J.; We Concur: Nares, Acting P.J., Aaron, J.

**D046433        People v. Strong**

**D047164        In re Strong on Habeas Corpus**

The petition for writ of habeas corpus, In re Strong, D047164, is consolidated with the appeal People v. Strong, D046433, for disposition.

**D046433        People v. Strong**

**D047164        In re Strong on Habeas Corpus**

(Consolidated) The judgment is affirmed; the petition a writ of habeas corpus is denied. McIntyre, J.; We Concur: Haller, Acting, P.J., Aaron, J.

**D047223        People v. Jones**

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 30.3).

FOURTH APPELLATE DISTRICT  
DIVISION ONE  
December 9, 2005

**D044663 Ramona Unified School District v. Tsiknas et al.,**

The judgment is affirmed. Defendants are entitled to costs on appeal. McDonald, J.; We Concur: Nares, Acting P.J., O'Rourke, J.

**D044619 Godding v. Defense Web Technologies, Inc et al.**

**D045434 Godding v. Defense Web Technologies, Inc et al.**

It is ordered that the opinion filed on December 6, 2005, be modified to add the concurring opinion of Justice Haller following page 18 (see order). There is no change in the judgment.

**D045375 McMeans v. City of Escondido**

The judgment is affirmed. Respondent is awarded costs on appeal. McConnell, P.J.; We Concur: Haller, J., Irion, J.

**D044839 People v. Davidson**

The judgment is affirmed. McConnell, P.J.; We Concur: Haller, J. Irion, J.

**D046928 In re Steven H., a Juvenile**

The orders are affirmed. McInyre, J.; We Concur: Huffman, Acting P.J., Haller, J.

**D045269 Garcia Produce et al. v. De La Fuente Business Park Owners Association**

The judgment is affirmed. The Association to pay Garcia's costs on appeal. Haller, J. We Concur: Benke, Acting P.J., O'Rourke, J.